

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of FRANCESCA PIGAIANI,  
Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JOSEPHINE SONZA,

Respondent-Appellant.

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UNPUBLISHED  
October 24, 2006

No. 269152  
Oakland Circuit Court  
Family Division  
LC No. 05-707042-NA

Before: Whitbeck, C.J., and Saad and Schuette, JJ.

PER CURIAM.

Respondent appeals an order that terminated her parental rights to the child pursuant to MCL 712A.19b(3)(e) and (g). We affirm.

Respondent argues that the trial court erred in asserting jurisdiction over the child, who was subject to a guardianship. We disagree. To properly exercise jurisdiction, the trial court must find by a preponderance of the evidence that a statutory basis for jurisdiction exists. MCR 3.962(B)(3); *In re BZ*, 264 Mich App 286, 294; 690 NW2d 505 (2004); *In re Toler*, 193 Mich App 474, 476; 484 NW2d 672 (1992). Under MCL 7.12A.2(b)(5), a trial court has jurisdiction in proceedings where the child has a guardian, and the parent, for two years or more before the filing of the petition, without good cause, neglects to provide regular and substantial support for the child, and fails to regularly and substantially visit the child, despite having had the ability to do so. Here, the trial court concluded that respondent was in a position to contribute financially to the child's upbringing. Respondent, an illegal alien from the Philippines, sometimes earned \$300 a week cleaning homes and babysitting children. She also sent money home to the Philippines when she was able. Respondent was not disabled and, aside from her status as an illegal alien, there was no reason respondent could not have contributed to the child's support. Additionally, respondent, although having the ability to visit, contact, or communicate with the child, failed to regularly and substantially do so without good cause for more than two years before the filing of the petition. The limited guardianship was established in 2002, and, since that time, respondent visited with the child on only a handful of occasions. The trial court did not believe respondent's contention that the guardians denied her visitation. Respondent did not send the child letters or cards, nor did she provide the child with gifts during the holidays or on

her birthday. A lack of transportation did not excuse respondent's failure to regularly contact the child or the guardians to check on the child's status. Accordingly, we conclude that the trial court did not clearly err in finding that a preponderance of the evidence supported an exercise of jurisdiction over the child pursuant to MCL 712A.2(b)(5).

Respondent argues that the trial court erred in finding that there was clear and convincing evidence to terminate her parental rights. We disagree. Respondent lived with the guardians for two weeks and then disappeared for six months to live with her boyfriend. The guardians had no way to contact respondent, and she essentially abandoned the child during that time. Respondent even signed a letter voluntarily relinquishing her parental rights to the child in order to satisfy school officials. Respondent consented to a limited guardianship, which was later changed to a full guardianship in 2003. During the entire time that the child lived with the guardians, respondent contributed nothing for the child's care and did not remain in contact with the guardians or the child. Again, respondent rarely visited the child and, though she claimed that the guardians denied visitation, this contention was not borne out in the record.

Additionally, the evidence clearly demonstrated that respondent was in no position to care for the child. She did not have housing and planned to live with her sister and brother-in-law if the child were returned to her care. This was problematic because the child had alleged that she was mistreated by her aunt and uncle. Respondent did not have a regular job, and her status as an illegal alien placed her in a position of peril because she could be deported. Moreover, respondent had a history of poor planning and shortsightedness. The psychologist opined that respondent would never be able to put her child's needs before her own. The psychologist pointed to the fact that respondent had an older child, whom she essentially abandoned in order to leave the Philippines and marry an Italian man. Respondent left that child with her own mother, who now lives in the United States. Presumably, the child was living with an uncle and remained in the Philippines. Respondent had not seen that child in ten years. Accordingly, we conclude that the trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Having found statutory grounds for termination proven by clear and convincing evidence, the trial court was required to terminate respondent's parental rights unless it appeared from the record that termination was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The child told the psychologist that she and respondent lived in various places and even lived in a car at one point. There were also times when the child did not get enough to eat. Respondent's history was fraught with instability and poor decision-making. Again, this was not the first child that respondent left behind to be raised by others.

Further, the court had ordered respondent and the child to attend HAVEN for counseling and visitation, for the purpose of "reacquainting" them. The counseling failed because of the child's refusal to cooperate. The child told the psychologist that she felt like a puppy that respondent had abandoned to someone else and the child severed herself emotionally from her mother. There was nothing that changed in respondent's life from the time the guardianship was put into place until the termination proceedings. And, there was no adequate explanation for why respondent failed to participate in the child's care, either through financial contribution or emotional support. Indeed, respondent's desire to return to a home where the child had allegedly

been mistreated was additional proof that respondent failed to empathize with the child's feelings of abandonment and would fail to protect her. The child was entitled to permanence and stability, neither of which was possible with respondent.

Affirmed.

/s/ William C. Whitbeck  
/s/ Henry William Saad  
/s/ Bill Schuette